

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #11	CCRB Case #: 202105999	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 09/23/2021 4:40 PM, Friday, 09/24/2021 12:46 AM	Location of Incident: the vicinity of § 87(2)(b) [REDACTED]	Precinct: 114	18 Mo. SOL 3/23/2023	EO SOL 3/23/2023	
Date/Time CV Reported Fri, 09/24/2021 7:26 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/06/2021 11:41 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Frank Ryan	03558	952201	INT CIS
2. LT CD Brian Hillmann	00000	932792	114 DET
3. PO Stephanie Vacchio	31707	953511	PSA 9
4. DT3 Scott Sohn	03585	955515	114 DET
5. Officers			
6. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Daniel Spies	06354	956277	114 DET
2. LT Jason Jansky	00000	936807	PSA 9
3. CPT Melody Robinson	00000	939329	PSA 9
4. SGT Kensington Cunningham	02830	931616	114 DET
5. PO Fahad Choudhry	24141	953753	PSA 9
6. PO James Farrell	12125	969687	PSA 9
7. PO Luis Miranda	27474	957772	PSA 9
8. PO Michelle Maldonado	08149	967591	PSA 9
9. PO Wilman Gutama	06100	967537	PSA 9
10. PO Anthony Yeh	15477	966912	PSA 9
11. PO Walkins Agenor	10013	969456	PSA 9
12. PO Kenneth Kersellius	30030	967140	114 PCT
13. SGT Jerrey Alcoser	03837	940924	PSA 9
14. PO Chaz Morrish	28863	967213	114 PCT
15. PO Jordan Singh	04495	967693	PSA 9
16. PO Martin Munoz	09199	946043	PSA 9
17. PO Frederick Barth	08621	961636	PSA 9
18. PO Maygan Forssell	17915	966578	PSA 9
19. PO Michael Spear	19054	954350	PSA 9
20. SGT Anthony Camacho	00273	948734	FTU 25
21. PO Manuel Maria	04562	948086	PSA 9
22. LT James Darcy	00000	891427	PSA 9

Witness Officer(s)	Shield No	Tax No	Cmd Name
23. LT SA Barry Duignan	00000	903851	ESU
24. PO Clyde Gabriel	24037	943261	PSA 9
25. SGT Otniel Figueroa	05082	948965	PSA 9
26. PO Juan Mane	28398	938926	PSA 9
27. PO Alexander Chadli	12051	968322	PSA 9

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Scott Sohn	Discourtesy: On September 23, 2021, Detective Scott Sohn spoke discourteously to § 87(2)(b)	
B.DT3 Scott Sohn	Off. Language: On September 23, 2021, Detective Scott Sohn made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	
C.DT3 Scott Sohn	Discourtesy: On September 23, 2021, Detective Scott Sohn spoke discourteously to § 87(2)(b)	
D.DT3 Scott Sohn	Abuse: On September 23, 2021, Detective Scott Sohn threatened § 87(2)(b) with the use of force.	
E.DT3 Scott Sohn	Abuse: On September 23, 2021, Detective Scott Sohn threatened to arrest § 87(2)(b)	
F.DT3 Scott Sohn	Abuse: On September 23, 2021, Detective Scott Sohn threatened to notify Administration for Children's Services.	
G. An officer	Abuse: On September 23, 2021, an officer frisked § 87(2)(b)	
H.LT CD Brian Hillmann	Abuse: On September 23, 2021, Lieutenant Brian Hillmann frisked § 87(2)(b)	
I.PO Stephanie Vacchio	Abuse: On September 23, 2021, Police Officer Stephanie Vacchio searched § 87(2)(b)	
J. An officer	Abuse: On September 23, 2021, an officer threatened to notify Administration for Children's Services.	
K.DT3 Scott Sohn	Abuse: On September 23, 2021, Detective Scott Sohn failed to obtain language interpretation services for § 87(2)(b)	
L.DT3 Scott Sohn	Abuse: On September 23, 2021, Detective Scott Sohn searched § 87(2)(b) § 87(2)(b) in Queens.	
M. Officers	Abuse: On September 23, 2021, officers entered § 87(2)(b) § 87(2)(b) in Queens.	
N. Officers	Abuse: On September 23, 2021, officers searched § 87(2)(b) § 87(2)(b) in Queens.	
O. Officers	Abuse: On September 23, 2021, officers did not obtain medical treatment for § 87(2)(b)	
P.DT3 Frank Ryan	Abuse: On September 24, 2021, Detective Frank Ryan entered § 87(2)(b) § 87(2)(b) in Queens.	
Q.DT3 Frank Ryan	Abuse: On September 24, 2021, Detective Frank Ryan searched § 87(2)(b) § 87(2)(b) in Queens.	
R. Officers	Abuse: On September 24, 2021, officers damaged § 87(2)(b)'s property.	
S. Officers	Discourtesy: On September 24, 2021, officers acted discourteously toward § 87(2)(b)	

Case Summary

On September 24, 2021, § 87(2)(b) filed this complaint with IAB over the phone. On October 6, 2021, the CCRB received this complaint.

On September 23, 2021, at approximately 4:40 p.m., § 87(2)(b) met officers, including Det. Scott Sohn of the 114th Precinct Detective Squad, who responded to reports of multiple assaults and shots fired in the vicinity of § 87(2)(b) in Queens. Det. Sohn escorted § 87(2)(b) her baby, and her mother, § 87(2)(b) to the front of the building and allegedly told her, “Stop fucking playing with me, bitch. Where’s the gun? I’m being nice to you, but you could get roughed up and locked up. You want me to take [your baby]? You want me to call [Administration for Children’s Services] (ACS)? Tell me where the gun is right now... You better not have any fucking weapons on you... Give the fucking baby to § 87(2)(b) I’m sick of these fucking games... You know you can get your kids removed?” and allegedly called her a “bad mother” (**Allegation A: Discourtesy**, § 87(2)(g) (**Allegation B: Offensive Language**, § 87(2)(g) (**Allegation C: Discourtesy**, § 87(2)(g) (**Allegations D and E: Abuse of Authority**, § 87(2)(g) (**Allegation F: Abuse of Authority**, § 87(2)(g)). An unidentified male officer allegedly frisked § 87(2)(b) before PO Stephanie Vacchio of the Intelligence Bureau also frisked then searched her after receiving instructions from Lt. Brian Hillmann of the 114th Precinct Detective Squad (**Allegations G and H: Abuse of Authority**, § 87(2)(g) (**Allegation I: Abuse of Authority**, § 87(2)(g)). The same male officer also allegedly told § 87(2)(b) “You know you can get your kids removed?” (**Allegation J: Abuse of Authority**, § 87(2)(g)). Det. Sohn allegedly had § 87(2)(b) a Spanish-speaker, sign a consent to search form without providing her Spanish interpretation and in a coercive manner (**Allegations K and L: Abuse of Authority**, § 87(2)(g)). Officers from Emergency Services Unit entered § 87(2)(b) s § 87(2)(b) to remove § 87(2)(b) § 87(2)(b) s baby, and clear the apartment (**Allegations M and N: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) allegedly asked multiple officers to retrieve her medication from inside § 87(2)(b) but they refused (**Allegation O: Abuse of Authority**, § 87(2)(g)).

On September 24, 2021, at approximately 12:46 a.m., Det. Frank Ryan of the Intelligence Bureau executed a search warrant at § 87(2)(b) § 87(2)(b) (**Allegations P and Q: Abuse of Authority**, § 87(2)(g)). Officers allegedly destroyed furniture and dumped out § 87(2)(b) s medication onto the floor during the search (**Allegation R: Abuse of Authority**, § 87(2)(g) (**Allegation S: Discourtesy**, § 87(2)(g)).

§ 87(2)(b) was arrested during the incident and charged with attempted murder in the second degree, criminal possession of a weapon in the second degree for a loaded firearm, and reckless endangerment in the first degree (BR 01).

Video evidence was obtained via the New York City Housing Authority (NYCHA) Central Office from surveillance cameras at § 87(2)(b) in Queens (BR 02) and via the NYPD Legal Bureau from the body-worn cameras (BWC) assigned to Det. Ryan, PO Vacchio, Police Service Area 9 officers PO Fahad Choudhry, PO James Farrell, PO Luis Miranda, PO Michelle Maldonado, PO Wilman Gutama, PO Anthony Yeh, Capt. Melody Robinson, PO Walkins Agenor, Sgt. Jerry Alcoser, PO Jordan Singh, PO Martin Munoz, PO Frederick Barth, PO Maygan Forssell, PO Michael Spear, PO Manuel Maria, Lt. James Darcy, Lt. Jason Jansky, PO Clyde Gabriel, Sgt. Otniel Figueroa, PO Juan Mane, and PO Alexander Chadli, and 114th Precinct officers PO Kenneth Kersellius and PO Chaz Morrish and Field Training Unit officer Sgt. Anthony Camacho, and ESU officer Lt. Barry Duignan (BR 03-05).

Findings and Recommendations

Allegation A – Discourtesy: On September 23, 2021, Detective Scott Sohn spoke discourteously to § 87(2)(b)

Allegation B – Offensive Language: On September 23, 2021, Detective Scott Sohn made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation C – Discourtesy: On September 23, 2021, Detective Scott Sohn spoke discourteously to § 87(2)(b)

Allegation D – Abuse of Authority: On September 23, 2021, Detective Scott Sohn threatened § 87(2)(b) with the use of force.

Allegation E – Abuse of Authority: On September 23, 2021, Detective Scott Sohn threatened to arrest § 87(2)(b)

Allegation F – Abuse of Authority: On September 23, 2021, Detective Scott Sohn threatened to notify Administration for Children's Services.

Allegation J – Abuse of Authority: On September 23, 2021, an officer threatened to notify Administration for Children's Services.

Footage from the NYCHA surveillance camera within the lobby of § 87(2)(b) partially addresses these allegations (BR 06). There is no onscreen timestamp. From 1:57:30 to 1:59:20, Det. Sohn enters the lobby and appears to speak with § 87(2)(b) and Sgt. Alcoser. Det. Sohn and the sergeant exit the lobby as § 87(2)(b) continues down the hallway toward § 87(2)(b). Based on onscreen timestamps available in the original footage source, this conversation occurred at approximately 4:57 p.m. Available NYCHA footage does not extend past 5:00 p.m.

Footage from PO Vacchio's BWC partially addresses these allegations (BR 07). The durational timestamp will be referenced. At 0:12, Lt. Hillman approaches PO Vacchio with § 87(2)(b) who holds a baby, and § 87(2)(b). At 0:28, Lt. Hillmann mentions there is a "huge problem" in the apartment and that he is about to call ACS. He advises that PO Vacchio is going to search her. Lt. Hillmann continues speaking to § 87(2)(b) vaguely about the incident and asks if she has weapons or anything else on her. At 1:30, Lt. Hillmann begins explaining that they cannot return to their apartment and § 87(2)(b) tells him officers can go inside. Lt. Hillmann continues trying to talk as § 87(2)(b) states she is tired and wants to sit. Lt. Hillman, Det. Ryan, PO Vacchio, and Sgt. Kensington Cunningham of the 114 Precinct Detective Squad walk towards benches with § 87(2)(b) and § 87(2)(b). PO Vacchio's BWC deactivates, and the rest of this interaction is not depicted on her or any other officers' BWC. This is the earliest interaction between § 87(2)(b) and officers captured on BWC. Det. Sohn is not depicted in this interaction. Onscreen timestamps indicate this interaction began at approximately 8:04 p.m. The next recorded interaction between § 87(2)(b) and officers including Det. Sohn is captured in PO Figueroa's BWC at approximately 8:46 p.m. (BR 08). At no point in PO Figueroa's BWC does Det. Sohn ask about a gun nor does any other officer mention that she could have her children removed or ACS. No other footage was located depicting any other interactions between § 87(2)(b) and officers between this interaction and the earlier interaction captured in the above-referenced NYCHA footage. At no point is an officer captured using profanity or offensive language with § 87(2)(b). No officer depicted with Det. Sohn appears to be a white male officer in his late 30s standing taller than 5'11" tall with an average build with black hair wearing a suit with suspenders.

§ 87(2)(b) stated she called 911 after her brother, § 87(2)(b) was one of several victims in group fighting (BR 09). She observed Det. Sohn and a white male officer in his late 30s standing taller than 5'11" with an average build with black hair wearing a suit with suspenders outside her apartment in the NYCHA complex courtyard so she left while holding her baby to speak with him about her brother. Det. Sohn informed her he was safe but was in an ambulance on the way to a hospital. § 87(2)(b) went back inside § 87(2)(b) followed by Det. Sohn and the other officer. Det. Sohn asked her to wait in the lobby, left briefly, then returned with the other officer to inform her that she could not go back inside her apartment. § 87(2)(b) exited the apartment as well and was also told she could not enter the apartment again. After waiting 10 to 15

minutes in the hallway, Det. Sohn and the other officer asked § 87(2)(b) and § 87(2)(b) to come outside. They all stood outside the building's main entrance. After a brief period, only Det. Sohn, the other officer, § 87(2)(b) holding her baby, and § 87(2)(b) stood together in front of the building. Det. Sohn told § 87(2)(b) "Listen, I know what happened here, people told me. Where's the gun?" § 87(2)(b) told him she did not know what he was talking about. Det. Sohn told her, "Stop fucking playing with me, bitch. Where's the gun? I'm being nice to you, but you could get roughed up and locked up. You want me to take [your baby]? You want me to call ACS? Tell me where the gun is right now." § 87(2)(b) told him she did not know what he was talking about. Det. Sohn told the other officer to search § 87(2)(b) and told her, "You better not have any fucking weapons on you... Give the fucking baby to your mom." At some point, Det. Sohn called § 87(2)(b) a "bad mother." Throughout the incident, Det. Sohn periodically approached § 87(2)(b) to ask about a gun. Every time he did so, the other officer would add, "Where is it? You know you can get kids removed." During the last time, when § 87(2)(b) signed a form § 87(2)(b) described as a search warrant, Det. Sohn told her "I'm sick of these fucking games." § 87(2)(b) stated that since she is a Spanish-speaker, she was unable to understand anything officers told § 87(2)(b) in English (BR 10).

Det. Sohn stated he and the entire available 114th Precinct Detective Squad arrived on scene to investigate a large group assault involving three victims and multiple shots fired (BR 11-12). Through video and witness canvasses, as well as locating shell casings and a trail of blood, it was established that § 87(2)(b) fired the shots and went inside § 87(2)(b). Det. Sohn entered § 87(2)(b) with officers he did not recall, knocked on the door to § 87(2)(b) and asked § 87(2)(b) to step into the hallway to speak with him and officers. He asked her if she saw or heard anything, and she reported she heard fighting outside while she was inside her apartment which involved her brother. He asked her if she heard gunshots, but he did not recall how she responded. § 87(2)(b) stated her mother and boyfriend, § 87(2)(b) were inside the apartment with a newborn and an infant. She stated he was not involved. As § 87(2)(b) was the only male identified as being in the apartment, Det. Sohn considered him to be the primary suspect of the shooting since video showed the shooter to be a male. At this point, the apartment was frozen due to possibility of firearm inside. Within a few minutes, § 87(2)(b) exited the apartment to join § 87(2)(b). Det. Sohn told her that the apartment would be frozen, so § 87(2)(b) went back inside briefly to grab her newborn from inside the apartment. Det. Sohn led her with her baby and § 87(2)(b) outside. Once outside, Det. Sohn told § 87(2)(b) and her mother explicitly that they could not return inside until a search warrant was secured and executed. Det. Sohn and other officers spoke with § 87(2)(b) and § 87(2)(b) as they sat on benches about 20 to 30 feet away from the front door of § 87(2)(b). At some point, Det. Sohn asked § 87(2)(b) if she had ever seen a firearm in the apartment and he did not recall how she responded. When § 87(2)(b) first exited the building, a female officer in uniform he did not recall frisked § 87(2)(b). He did not instruct any officer to frisk her and did not see a male officer frisk her. Det. Sohn did not recall ever telling § 87(2)(b) "Listen, I know what happened here, people told me. Where's the gun?" or "Stop fucking playing with me, bitch. Where's the gun?" He denied ever using the word "fuck(ing)" or "bitch" when speaking with § 87(2)(b). He denied ever telling her, "I'm being nice to you, but you could get roughed up and locked up." He never threatened force or arrest against her. He denied ever telling her, "You want me to take your baby? You want me to call ACS? Tell me where the gun is right now." He never threatened to contact ACS or have her baby removed. Det. Sohn denied ever telling § 87(2)(b) to give the "fucking baby" to her mom and never called her a "bad mother." He never discussed her parenting skills or her actions as a mother. He denied telling her, "You better not having any fucking weapons on you." He denied telling her, "I'm sick of these fucking games." He was not aware of any other officer threatening to call ACS or otherwise remove her child or ask any questions about a firearm. He did not use any profanity when speaking with § 87(2)(b). When provided the description of the officer as described by § 87(2)(b) remaining with him throughout much of the interaction, he could not identify any specific officer matching that description. He did

not recall any specific officers beside himself who spoke with § 87(2)(b)

Lt. Hillmann provided consistent testimony to Det. Sohn with the following additions and exceptions (BR 13). He generally supervised the investigation on scene. His first observation of § 87(2)(b) and § 87(2)(b) was when they were leaving § 87(2)(b) after the apartment was frozen. He did not recall if they were alone or accompanied by officers. He did not know how officers made initial contact with § 87(2)(b) and § 87(2)(b). He was aware that officers from the Detective Squad spoke to them initially, but he did not recall who. The only specific conversation involving § 87(2)(b) and officers Lt. Hillmann specifically recalled was when § 87(2)(b) signed a form to provide consent to search the apartment since he had earlier viewed the above-referenced footage from PO Figueroa's BWC to properly document it. He recalled Det. Sohn was present for this, which was the only specific recollection he had of him on scene. He did not recall any officer making any profane or offensive statement or any threats of force or arrest to § 87(2)(b). He did not recall himself or any officer threaten to contact ACS. When provided the description of the officer as described by § 87(2)(b) remaining with Det. Sohn throughout much of the interaction, he could not identify any specific officer matching that description. When presented the above-referenced footage from PO Vacchio's BWC, Lt. Hillmann did not specifically recall how the conversation continued following the end of the footage.

Sgt. Cunningham provided consistent testimony to Det. Sohn with the following additions and exceptions (BR 14). He assisted in generally supervising the investigation on scene. While outside § 87(2)(b) he observed a detective from his squad he did not specifically recall escort § 87(2)(b) holding a baby, and § 87(2)(b) out of the building and sit them on a bench in front. Sgt. Cunningham, Lieutenant Hillman, Det. Sohn, and PO Figueroa were in proximity, but Sgt. Cunningham did not recall them engaging in direct conversation with § 87(2)(b) initially. The only officer he recalled speaking with § 87(2)(b) was Det. Sohn, but only when the consent to search form was signed. He did not hear any officer making any profane or offensive statement or any threats of force or arrest or ACS to § 87(2)(b). When provided the description of the officer as described by § 87(2)(b) remaining with Det. Sohn throughout much of the interaction, he could not identify any specific officer matching that description. When presented the above-referenced footage from PO Vacchio's BWC, Sgt. Cunningham did not specifically recall how the conversation continued following the end of the footage.

PO Vacchio provided consistent testimony to Det. Sohn with the following additions and exceptions (BR 15). She recalled § 87(2)(b) and § 87(2)(b) standing in front of § 87(2)(b) speaking to officers she did not recall. She did not recall herself interacting with either woman. She did not recall observing Det. Sohn during the incident. She did not hear any officer making any profane or offensive statement or any threats of force or arrest or ACS to § 87(2)(b). When provided the description of the officer as described by § 87(2)(b) remaining with Det. Sohn throughout much of the interaction, she could not identify any specific officer matching that description. When presented the above-referenced footage from her own BWC, PO Vacchio did not independently recall the events or how the conversation continued following the end of the footage.

PO Daniel Spies provided consistent testimony to Det. Sohn with the following additions and exceptions (BR 16). He went to the NYCHA Central Office in Long Island City after spending 30 to 45 minutes on scene. He never saw or spoke to § 87(2)(b) on scene. He did not hear any officer making any profane or offensive statement or any threats of force or arrest or ACS to § 87(2)(b). When provided the description of the officer as described by § 87(2)(b) remaining with Det. Sohn throughout much of the interaction, he could not identify any specific officer matching that description.

On August 24, 2022, Det. Ryan retired from the NYPD before the investigation could interview him (BR 17).

§ 87(2)(b) whom § 87(2)(b) described as being alone in the apartment with one of her babies during the incident, was arrested that day for criminal possession of a weapon in the second degree for a loaded firearm as well as attempted murder in the second degree and reckless

endangerment in the first degree (BR 01).

When a child's physical, mental, or emotional condition is in imminent danger of becoming impaired because of a failure of his parent or other person legally responsible for their care to exercise a minimum degree of care, an officer must take several steps to ensure that child's safety including potentially removing the child and referring the situation to ACS NYPD Patrol Guide Procedure 215-03 (BR 18).

Despite BWC footage depicting the signing of the consent to search form revealing that Det. Sohn did not use discourteous language during that time as alleged, there were numerous other alleged interactions. With limited video footage addressing § 87(2)(b)'s interactions with multiple officers including Det. Sohn, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Abuse of Authority: On September 23, 2021, an officer frisked § 87(2)(b)

Allegation H – Abuse of Authority: On September 23, 2021, Lieutenant Brian Hillmann frisked § 87(2)(b)

Allegation I – Abuse of Authority: On September 23, 2021, Police Officer Stephanie Vaccio searched § 87(2)(b)

Footage from PO Vacchio's BWC partially addresses these allegations (BR 07). The durational timestamp will be referenced. At 0:00, an officer in an ESU uniform is visible on scene. § 87(2)(b) walks, apparently with a normal gait, with Lt. Hillmann. At 0:43, as Lt. Hillmann discusses the ongoing situation with § 87(2)(b) he tells § 87(2)(b) "I'm going to have this officer search you really quick." § 87(2)(b) tells him to go ahead. PO Vacchio removes a phone from § 87(2)(b)'s waistband as it is apparent that her pants do not have pockets. PO Vacchio frisks her sweater, the back and front of her torso, waistband, and legs. At 1:15, PO Vacchio pulls down the cuff of her sock and asks her to take her shoes off. § 87(2)(b) removes her shoes. No other frisks of § 87(2)(b) were depicted in any of the available footage.

§ 87(2)(b) stated that when she first left the building with Det. Sohn and the unidentified officer she described as a white male wearing a suit with suspenders, Det. Sohn told her that she "better not" have any weapons on her and told the unidentified officer to search her. This officer frisked § 87(2)(b) under her armpits, on the sides of her torso, and her waist. § 87(2)(b) asked why the officer had to do this in front of her neighbors and asked if she could be searched privately. A different unidentified white male officer approached Det. Sohn and whispered something that § 87(2)(b) could not hear. Det. Sohn told the first unidentified officer to stop frisking § 87(2)(b) because a female officer had to search her. PO Vacchio approached her after a couple minutes, frisked her whole body, asked her to take her shoes off, and searched her pants pockets.

§ 87(2)(b) stated that a male officer frisked § 87(2)(b)'s entire body.

Lt. Hillmann stated that after the apartment was frozen for officers to obtain a search warrant, he first observed § 87(2)(b) and § 87(2)(b) outside. Both women were frisked as they had both just left an apartment where a suspected firearm was and could potentially be carrying it on their person. He never observed any indications they were carrying a firearm. He did not recall the officer doing anything more intrusive than a frisk. He did not recall who conducted these frisks. When presented the above-referenced footage, he stated that PO Vacchio frisked § 87(2)(b) and searched her shoes after his instruction because she had just left a residence where there was a suspected firearm so it was reasonable to think she might have a weapon, and that could have been

concealed in her shoe as some firearms are small enough to fit.

PO Vacchio did not recall frisking or searching § 87(2)(b). When presented the above-referenced footage, she stated she frisked § 87(2)(b) and searched her shoes for any weapons since she had just left a residence where a suspect had taken a gun inside recently. PO Vacchio did not recall observing any indications on § 87(2)(b)'s person that she might be carrying a weapon.

Det. Sohn stated that when § 87(2)(b) first exited the building, a female uniformed officer he did not recall frisked her. He did not recall specific body parts that were frisked. The frisk was to check for a firearm as she had just left an apartment that officers had established § 87(2)(b) went into after firing a gun. He did not see any indications on § 87(2)(b)'s person that she had a firearm. He was not aware of any other officer who frisked her. He did not see any officer reach into § 87(2)(b)'s pockets or remove and search her shoes.

Sgt. Cunningham first saw § 87(2)(b) and § 87(2)(b) in front of § 87(2)(b) being escorted outside by a detective he did not recall. He believed § 87(2)(b) was frisked but did not know when or by whom. It was a reasonable step because it had already been established that she was leaving an apartment where there potentially was a firearm. Sgt. Cunningham never observed an officer search § 87(2)(b)'s pockets or take off her shoes.

All officers testified that they had received witness testimony and various sources of video evidence including cellphone footage and NYCHA surveillance footage consistent with § 87(2)(b) firing a gun outside of § 87(2)(b) and then entering § 87(2)(b).

No officer interviewed recognized § 87(2)(b)'s description of the first officer that frisked her, and the investigation was unable to identify him in any of the available BWC footage and documentation.

Where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor, a forcible stop and detention of that person is authorized as well as a frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. If the frisk reveals an object that is reasonable believed to be a weapon, the officer is permitted to enter clothing and remove it People v. DeBour 40 N.Y.2d 210 (1976) (BR 26).

Reasonable suspicion that an individual is carrying a firearm is present if they are an occupant of a private premises for which a search warrant has been obtained to locate a firearm United States v. Jaramillo 25 F.3d 1146 (1994) (BR 27)

The available video evidence does not capture the first frisk that § 87(2)(b) alleged. It is possible that the above-referenced footage captures the only frisk that occurred, however, it is also possible that § 87(2)(b) interacted with Det. Sohn and another officer before. § 87(2)(g)

§ 87(2)(b) While a search warrant was not yet secured, it is clear from officer testimony and the above-referenced footage that they had already established § 87(2)(b) as being the primary suspect in the shots fired incident and that he had gone into § 87(2)(b)'s residence. This same information officers had at the time of § 87(2)(b)'s frisk also allowed a judge to issue a search warrant later that day. § 87(2)(g)

§ 87(2)(b) Since § 87(2)(b) had just left an apartment that officers had established § 87(2)(b) recently brought a firearm into § 87(2)(g)

While § 87(2)(b) is not depicted wearing jeans or pants with pockets, which contradicts her description of PO Vacchio's search, PO Vacchio did have her remove her shoes. § 87(2)(b)'s shoes appear to be tight upon her feet and made of soft material, able to be frisked on the exterior to reveal a potential firearm or other prominent hard object within. Additionally, BWC depicts no apparent irregularity in § 87(2)(b)'s gait due to any potential firearm in her shoe and no officer stated they observed any direct indication on her person that § 87(2)(b) was carrying a firearm. Though Lt. Hillmann instructed PO Vacchio to search § 87(2)(b) PO Vacchio's individual

actions § 87(2)(g) without receiving specific instruction from Lt. Hillmann to have § 87(2)(b) also remove her shoes. § 87(2)(g)

Allegation K – Abuse of Authority: On September 23, 2021, Detective Scott Sohn failed to obtain language interpretation services for § 87(2)(b)

Allegation L – Abuse of Authority: On September 23, 2021, Detective Scott Sohn searched § 87(2)(b) in Queens.

Allegation M – Abuse of Authority: On September 23, 2021, officers entered § 87(2)(b) in Queens.

Allegation N – Abuse of Authority: On September 23, 2021, officers searched § 87(2)(b) in Queens.

Footage from PO Figueroa's BWC partially addresses these allegations (BR 08). The durational timestamp will be referenced. At 1:00, Det. Sohn approaches § 87(2)(b) and § 87(2)(b) with a piece of paper. He checks that § 87(2)(b) and § 87(2)(b) consent to officers searching the apartment, which § 87(2)(b) tells him to "go ahead." She identifies § 87(2)(b) as the registered owner of the apartment and officers state that she needs to sign it. § 87(2)(b) and § 87(2)(b) advise officers that § 87(2)(b)'s daughter is inside the apartment. At 1:35, Det. Sohn and § 87(2)(b) direct § 87(2)(b) where to print her name and date of birth on the consent to search form. At 2:55, PO Figueroa begins speaking in Spanish with § 87(2)(b) to explain that by signing the form, she is providing consent for officer to search the apartment. At 3:20, PO Figueroa takes the consent to search form and translate its contents to explain to § 87(2)(b) in Spanish. At 4:00, § 87(2)(b) signs the form. Det. Sohn and PO Figueroa then sign the form, noting the time is 6:51 p.m., consistent with the on-screen timestamp.

Footage from Lt. Duignan's BWC partially addresses these allegations (BR 19). The durational timestamp will be referenced, though it is noted that the video begins at on-screen timestamp 6:58 p.m. At 0:00, multiple ESU officers are lined in front of the door to § 87(2)(b). A rope is tied to the exterior doorknob and the door is ajar. An officer in front of the door holds a shield and may is breaking the threshold of the apartment with her hands and front of her body. She appears to be pointing a flashlight inside. At 0:36, § 87(2)(b) comes to the door from within the apartment. ESU officers enter as another takes § 87(2)(b) out of the apartment by his arm. § 87(2)(b) holds a baby, which PO Maldonado takes from § 87(2)(b). Lt. Duignan and another officer cuff § 87(2)(b). Lt. Duignan confirms with those officers inside the apartment that there is no one else inside. At 1:38, Lt. Duignan joins other officers inside the apartment. They move around the apartment checking each area. They do not appear to manipulate any objects or search in any areas that could not contain a person. There is no indication they are searching for a firearm. At 3:30, they leave the apartment.

No entry or search of the apartment is depicted in any available footage occurring prior to § 87(2)(b) signing the consent to search form and then ESU entering the apartment. Beginning at 7:13 p.m., as depicted in all BWC recorded between that time and 9:08 p.m. (BR 04), several officers including Det. Sohn, PO Figueroa, Lt. Jansky, and PO Maldonado, enter the apartment but each time is at the specific instruction of § 87(2)(b) and/or § 87(2)(b) to retrieve specific personal belongings so that they can prepare to spend the night away from their residence. At no point does an officer appear to be attempting to search for any object other than what § 87(2)(b) and § 87(2)(b) describe. No other entries of the apartment by officers are depicted until they are executing a search warrant.

§ 87(2)(b) stated that after § 87(2)(b) was taken out of the apartment, Det. Sohn approached her for the last time. He showed a piece of paper to § 87(2)(b) who does not speak English well. He asked her to sign it. She told Det. Sohn she did not speak English and asked multiple times what it was. She also spoke Spanish to him. Det. Sohn only responded, "Just sign it,

mami, just sign it,” and § 87(2)(b) did. As § 87(2)(b) signed it, § 87(2)(b) looked over and saw it was a search warrant. She asked Det. Sohn about it, but he ignored her.

§ 87(2)(b) stated that she does not speak English. At no point did any officer show her any sort of document or ask her to sign anything.

The consent to search form signed by § 87(2)(b) is consistent with the above-referenced footage (BR 20).

Det. Ryan, in seeking a search warrant for the apartment, testified via affidavit that § 87(2)(b) gave officers permission to enter the apartment to retrieve her child safely (BR 21).

The ESU report for this incident, under ESU case § 87(2)(g) and prepared by Det. Emily Carberry of ESU, described § 87(2)(b) giving officers permission to enter and search the apartment (BR 21).

When obtaining consent to search an individual’s home, an officer must articulate in plain and simple language in a non-threatening and non-coercive manner that the individual is being asked to voluntarily, knowingly, and intelligently consent to that search, and explain that the search will not be conducted if such person refuses to provide consent, and must affirm that the individual understands, using interpretation services when seeking consent from an individual with limited English proficiency New York City Administrative Code 14-173 (BR 22).

As depicted in the above-referenced footage and contradictory to civilian testimony, Det. Sohn did not coerce § 87(2)(b) into signing a consent to search form but had a Spanish-speaking officer present and record that consent request in compliance with the New York City Administrative Code. Additionally, any search by Det. Sohn and other officers following § 87(2)(b)’s provision of consent was not to locate any evidence connected with § 87(2)(b) crime, but instead to secure § 87(2)(b)’s child and collect personal belongings of § 87(2)(b) and § 87(2)(b) as specifically instructed and requested by both women. § 87(2)(g)

Additionally, as ESU officers entered and cleared the apartment following § 87(2)(b)’s provision of consent and § 87(2)(b) asking about her child who was still inside § 87(2)(g)

Allegation O – Abuse of Authority: On September 23, 2021, officers did not obtain medical treatment for § 87(2)(b)

Footage from PO Figueroa’s BWC partially addresses this allegation (BR 23). The durational timestamp will be referenced. At 4:30, PO Figueroa speaks in Spanish with § 87(2)(b) outside § 87(2)(b). PO Figueroa asks to look inside § 87(2)(b)’s bag, and she states she has her medication inside.

Footage from PO Maldonado’s BWC partially addresses this allegation (BR 24). The durational timestamp will be referenced. At 0:30, before there is audio, § 87(2)(b) appears to be describing a location or object within the apartment based on her hand movements. She appears to be indicating something is high up on a shelf. She stands with a man. At 1:00, PO Maldonado enters the apartment with PO Gutama. At 1:15, PO Maldonado and PO Gutama refer to § 87(2)(b)’s earlier instructions about locating something. They both locate a large case of medication and PO Maldonado states, “That’s it.” They discuss another smaller case that was described, and at 1:50, PO Maldonado locates a smaller case of medication. They exit and hand it to the man who was with § 87(2)(b) earlier in the future.

§ 87(2)(b) stated that she told multiple officers she needed her daily epilepsy medication and was only told she could not enter the apartment. No officer brought out her medication.

§ 87(2)(b) did not testify to this allegation.

It is clear in the above-referenced footage that § 87(2)(b) is giving PO Maldonado some sort of instructions before PO Maldonado enters to retrieve two cases of pills, which contradicts

§ 87(2)(b)'s allegation that no officer ever retrieved her medication from within the apartment. § 87(2)(b)

Allegation P – Abuse of Authority: On September 24, 2021, Detective Frank Ryan entered § 87(2)(b) in Queens.

Allegation Q – Abuse of Authority: On September 24, 2021, Detective Frank Ryan searched § 87(2)(b) in Queens.

Allegation R – Abuse of Authority: On September 24, 2021, officers damaged § 87(2)(b)'s property.

Allegation S – Discourtesy: On September 24, 2021, officers acted discourteously toward § 87(2)(b)

Footage from Det. Ryan's, Capt. Robinson's, and PO Vacchio's BWC address these allegations (BR 03). The durational timestamps will be referenced. Each officer's footage captures in their entirety the entry and search of § 87(2)(b) pursuant to a search warrant. Officers look in all areas of the apartment searching for a firearm and remove certain clothing and belongings from closets, boxes, and other compartments. At no point is an officer depicted damaging any property other than potentially a safe which Det. Ryan opens with a crowbar at 1:08:00 in his footage, revealing it to be empty. At no point is an officer depicted handling medication nor is any medication depicted on the floor of the apartment. At no point is an officer depicted using the bathroom.

Neither § 87(2)(b) nor § 87(2)(b) were present for these allegations. § 87(2)(b) stated that when she returned to her apartment following the search warrant execution, she found that officers had destroyed the children's beds, sofa cushions, had stepped on their furniture, and used the restroom leaving urine on and around the seat. Officers broke § 87(2)(b)'s "box" that had money inside of it. She also found that officers had dumped out all her epilepsy medication on the floor so that she had to get a new prescription.

Det. Ryan secured search warrant § 87(2)(g) on September 23, 2021, which allowed officers to enter and search § 87(2)(b) in Queens at any time within the following 10 days for firearms, ammunition, clothing, and other items (BR 25).

At the time of this report, Det. Ryan has retired from the NYPD (BR 17).

§ 87(2)(g) Det. Ryan and his fellow officers were in possession of a valid search warrant at the time they entered and searched for evidence related to the earlier shots fired incident, § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 28).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 29).
- Det. Sohn has been a member-of-service for nine years and has been a subject in five other CCRB complaints and 11 other allegations with no substantiations (see officer history). § 87(2)(g)
- Lt. Hillmann has been a member-of-service for 19 years and has been a subject in 12 other CCRB complaints and 28 other allegations with no substantiations (see officer history). § 87(2)(g)
- PO Vacchio has been a member-of-service for 10 years and has been a subject in three other CCRB complaints and three other allegations with no substantiations (see officer history). § 87(2)(g)

- Det. Ryan resigned from the NYPD following this incident (see officer history). He was a subject in 15 other cases and 35 other allegations with two substantiations:
 - Case 201902463 involved substantiated allegations of a frisk and a stop. The Board recommended Command Discipline B and the NYPD imposed Formalized Training.
 - § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 1, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (BR 30).
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad: 11

Investigator:	<u>Benjamin Shelton</u> Signature	<u>SI Benjamin Shelton</u> Print Title & Name	<u>12/22/2022</u> Date
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Squad Leader:	<u>Edwin Pena</u> Signature	<u>IM Edwin Pena</u> Print Title & Name	<u>12/22/2022</u> Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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